



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2016

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. (MD)No.4397 of 2016

and

Crl.M.P. (MD)No.2653 of 2016

G.Sivakumar

..Petitioner/Accused (Single)

Vs

The State represented by
The Inspector of Police,
All Women Police Station,
Thirumangalam, Madurai District.
(Crime No.16 of 2016).

.. Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to direct the learned III Additional District and Sessions Judge (PCR Court), Madurai, Madurai District to consider the bail application to be file by the petitioner on the same day of its filing on his surrendering in connection with the case in Crime No.16 of 2016 on the file of the Inspector of Police, All Women Police Station, Thirumangalam, Madurai District.

For Petitioner :Mr.S.Balaji

For Respondent :Mrs.S.Prabha
Government Advocate (Crl.Side)
:Mr.G.R.Swaminathan
for Mr.A.Vadivel for intervenor

O R D E R

The learned counsel for the petitioner submits that the petitioner has come forward with this petition seeking for a direction to the learned III Additional District and Sessions Judge, (PCR Court),, Madurai, Madurai District to consider the bail application of the petitioner on the same day on his surrender in Crime No.16 of 2016 pending on the file of the respondent.

2. The learned counsel for the petitioner also submits that the petitioner has been implicated in this case for the alleged offences under Sections 417, 376, 313 and 506(i) I.P.C. r/w Section 3(1)(xii) of S.C. & S.T. Amendment Act, 2013, and that in view of the specific bar under Section 18 of the said Act, the petitioner cannot move any anticipatory bail application and therefore, the petitioner has come forward with the said prayer.

3. The learned Government Advocate(Crl.Side) takes notice for the respondent.

On 14.03.2016, this Court passed the following order:

'The petitioner has filed this criminal original petition, under Section 482 of the Code of Criminal Procedure, seeking



for a direction to the learned III Additional District and Sessions Judge, P.C.R., Court, Madurai, to consider his bail application on the same day on his surrender in Crime No.16 of 2016, pending on the file of the respondent Police.

2. Heard Mr.S.Balaji, learned counsel appearing for the petitioner / accused, Mrs.S.Prabha, learned Government Advocate (Criminal Side) appearing for the respondent State and Miss.Mariammal @ Pavithra / *de facto* complainant, who appeared in person.

3. It is seen that on 29.12.2015, the *de facto* complainant lodged a complaint before the Inspector of Police, All Women Police Station, Cheyyar, Thiruvannamalai District and based on which petition enquiry, in C.S.R.No.340 of 2015 was conducted. In the said complaint, she has not made any whisper about the petitioner / accused having sexually abused her, whereas she has merely stated that the petitioner / accused borrowed money from her and refusing to make repayment.

4. Under such circumstances, the learned Government Advocate (Criminal Side) is directed to obtain the file in C.S.R.No.340 of 2015, from the Inspector of Police, All Women Police Station, Cheyyar, Thiruvannamalai District and a Constable from the said Police Station is directed to appear before this Court on 28.03.2016 along with the file in C.S.R.No.340 of 2015.

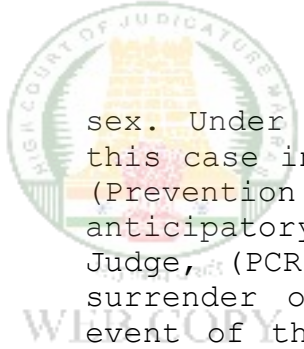
5. Taking into consideration the above facts, this Court is inclined to grant an order of stay of arrest as anticipatory bail cannot be granted under the S.C./ S.T. Act, till 28.03.2016.

6. Registry is directed to print the name of the *de facto* complainant and list the matter on 28.03.2016.

4. On the orders of this Court, the case records relating to C.S.R.No.340 of 2015, on the file of the Inspector of Police, All Women Police Station, Cheyyar, Thiruvannamalai District was produced. On a reading of the complaint said to have been given by the *defacto* complainant, to the Inspector of Police, All Women Police Station, Cheyyar, it is seen that she has not made any allegations of having had sexual relationship with the petitioner. She only stated that this petitioner had borrowed money from her and had failed to return the amount.

5. Mr.G.R.Swaminathan, learned Counsel for the intervenor strongly contended that Cheyyar police has deliberately obtained this letter from the *defacto* complainant in order to protect the petitioner.

6. In this case, the *defacto* complainant has given a complaint dated 03.03.2016, based on which F.I.R. has been registered in this case. The *defacto* complainant has also given complaint dated 16.12.2015 to the Honourable Chief Minister and other Officials by registered post. It is seen that the *defacto* complainant is aged about 34 years and the petitioner is also in the same age and they seem to have had consensual



sex. Under such circumstances, considering the nature of the prayer in this case in view of the specific bar under Section 18 of the S.C. & S.T. (Prevention of Atrocities) Act that the petitioner cannot move any anticipatory bail, the learned III Additional District and Sessions Judge, (PCR Court), Madurai, Madurai District is directed to accept the surrender of the petitioner and consider the bail application, in the event of the petitioner filing such petition in Crime No.16 of 2016 on the file of the respondent police, and dispose of the same on merits and in accordance with law on the same day. Whatever is observed herein is only for deciding this petition and it shall not prejudice either party.

7. With this observation, this petition is disposed of accordingly. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To

1. The III Additional District and Sessions Judge, (PCR Court), Madurai, Madurai District.
2. The Inspector of Police,
All Women Police Station, Thirumangalam, Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+2 CC to Mr.S.BALAJI, Advocate, SR No.19178

Cr1.O.P. (MD) No.4397 of 2016
05.04.2016

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